

REMARKS

Claims 10-18, 28-36, and 42-44 are pending in the present application. By this Response, claims 10-15, 28-33, and 42-44 are amended. Claims 10, 28, and 42-44 are amended to recite “wherein the retention parameter is at least one of a topic, a title, number of copies, or an indication of whether memory stacking is to be employed.” Claims 11-15 and 29-33 are amended for antecedent basis in view of the amendments to claims 10 and 28. Claims 11-15, 18, 29-33, and 36 are further amended for clarity in view of the amendments to claims 10 and 28. Reconsideration of the claims in view of the above amendments and the following remarks is respectfully requested.

I. Examiner Interview

Applicants thank Examiner Vuong for the courtesies extended to Applicant’s representative during the March 15, 2005, and March 28, 2005, telephone interviews. During the interview on March 15, the differences between the prior art and the presently claimed invention were discussed. At that time, Examiner Vuong indicated he would review the file and propose an amendment he felt would overcome the prior art. On March 28, 2005, Examiner Vuong indicated an amendment including further definition of element 2208 as defined in the present specification would overcome the prior art. The substance of the interview is summarized in the remarks of the sections that follow.

II. 35 U.S.C. § 103, Alleged Obviousness, Claims 10-17, 28-35, and 42

The Office Action rejects claims 10-17, 28-35, and 42 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hoffman et al. (U.S. Patent No. 4,635,121) in view of Culbertson et al. (U.S. Patent No. 5,168,481) and Pawlowski et al. (U.S. Patent No. 6,038,199). This rejection is respectfully traversed.

As to claims 10, 28 and 42, the Office Action states:

Regarding claims 10, 28, and 42, Hoffman et al. disclose a method, a system, and a computer program product implemented in a data processing system for storing broadcast events for playback at a later time,

wherein the data processing system includes a broadcast receiver, the method comprising: receiving a retention parameter for retaining a broadcast event; and retaining a broadcast event according to the retention parameter (column 5, lines 27-42; and column 7, lines 32-60). Hoffman et al. do not specifically disclose receiving a playback scheduling parameter for scheduling a broadcast event; receiving a playback format parameter for playing back a broadcast event; retaining a broadcast event according to the retention parameter in order to create a previously recorded broadcast event; retrieving a broadcast event according to the playback format parameter; and playing back a broadcast event according to the playback format parameter. However, Culbertson et al. disclose receiving a playback scheduling parameter for scheduling a broadcast event; receiving a playback format parameter for playing back a broadcast event; retrieving a broadcast event according to the playback format parameter; and playing back a broadcast event according to the playback format parameter (column 1, lines 25-35, 43-66). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the above teaching of Culbertson et al. to Hoffman et al., in order to automatically playback stored broadcast based on the schedule (as suggested by Culbertson et al. at column 1, lines 55-60). The combination of Culbertson et al. and Hoffman et al. does not disclose retaining a broadcast event according to the retention parameter in order to create a previously recorded broadcast event. However, Pawlowski et al. disclose retaining an event according to the retention parameter in order to create a previously recorded event (column 9, line 62 – column 10, line 17). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the step of retaining an event according to the retention parameter in order to create a previously recorded event of Pawlowski et al. to the method, system, and computer program product of Culbertson et al. and Hoffman et al. in order to organize and operate the previously recorded broadcast event.

Office Action dated January 25, 2005, pages 2-3.

Claim 10, which is representative of the other rejected independent claims 28 and 42 with regard to similarly recited subject matter, reads as follows:

10. A method implemented in a data processing system for storing broadcast events for playback at a later time, wherein the data processing system includes a broadcast receiver, the method comprising:
 - receiving a retention parameter for retaining a broadcast event,
wherein the retention parameter is at least one of a topic, a title, number of copies, or an indication of whether memory stacking is to be employed;
 - receiving a playback scheduling parameter for scheduling the broadcast event;
 - receiving a playback format parameter for playing back the broadcast event;

retaining the broadcast event according to the retention parameter in order to create a previously recorded broadcast event;
retrieving the previously recorded broadcast event according to the playback format parameter; and
playing back the previously recorded broadcast event according to the playback format parameter. (emphasis added)

Hoffman, Culbertson and Pawlowski, taken alone or in combination, fail to teach or suggest retaining the broadcast event according to the retention parameter in order to create a previously recorded broadcast event, where the retention parameter is at least one of a topic, a title, number of copies, or an indication of whether memory stacking is to be employed, retrieving the previously recorded broadcast event according to the playback format parameter, and playing back the previously recorded broadcast event according to the playback format parameter.

Hoffman is directed to a system for programming a radio and/or television receiver for future transmissions where problems may occur due to overlapping of the programmed transmissions. To address possible overlapping, Hoffman provides priority data for the individually programmed transmissions, which controls the sequence in the event of overlapping transmissions. The use of the priority data is particularly efficient when the transmissions are controlled in addition or exclusively by transmitted identification numbers and, consequently, are only received during the actual transmission time, and shifts with respect to the planned transmission times cannot be foreseen.

Thus, with the system of Hoffman, a user programs a radio to receive future transmissions based on the time the transmission is to be received and at that time, the system of Hoffman tunes the radio to that frequency. In contradistinction, the presently claimed invention retains a broadcast event according to a retention parameter in order to create a previously recorded broadcast event. Hoffman does not teach or suggest this feature. The Office Action alleges that this feature is taught by Hoffman at column 5, lines 27-42 and column 7, lines 32-60, which read as follows:

Also after a programmed transmission has been found, repeated reading of the memory 7 is continued and when now a different, programmed transmission is found, whose data, as regards the time, correspond to the data supplied by the electronic clock 10, the priority number of this other transmission is compared with the intermediately

stored priority number. If the priority number of the other transmission exceeds the intermediately stored priority number, the higher priority number is stored intermediately and the associated frequency data are applied to the tuning unit 5 so that now the transmission having the higher priority number is reproduced. In this way an unambiguous decision is taken also when, accidentally, two transmissions which start at the same time or have at least partly the same time of transmission are programmed.

(Column 5, lines 27-42)

Still further applications of the described arrangement are obtained, when, in addition to the identification numbers of the transmissions, also data in the program survey or data transmitted with the actual transmission which indicate the type of transmission, these types of transmissions being, for example, the news, sporting events, political broadcasts, musical programs etc., are transmitted. When it is assumed that the data indicating the type of program are additional data, it is possible to store as program data a program type together with a time or a time range instead of the time or the identification number, respectively, of a given transmission. Also here the additional storage of priority data and blocking data is possible in an identical way. The data indicating the type of the transmission received are also applied to the comparator 8 from the digital evaluation circuit 2 via the conductor 28. As a result thereof, all transmissions within the programmed time range determined by comparing the data from the electronic clock 10 in the comparator 8 are indicated, the type in accordance with the data applied to the comparator 8 via the conductor 28 corresponding to the programmed data, is displayed on the reproducing device 3 or recorded by means of the recording device 12. When in addition certain transmissions are programmed which fall within this time range, they can be treated with precedence or in dependence on the priority programmed therewith.

(Column 7, lines 32-60)

In column 5, lines 27-42, Hoffman merely describes that after the system has located the previously programmed transmission, the memory is repeatedly read for when a different, programmed transmission is found. In column 7, lines 32-60, Hoffman merely describes additional data that is transmitted along with the actual transmission, which indicates the type of transmission. The actual transmission is stored as program data together with a time or a time range instead of the time or the identification number. Nowhere in these sections, or any other section of Hoffman, is it taught or suggested to retain a broadcast event according to a retention parameter in order to create a previously recorded broadcast event. Hoffman teaches a memory that is used to store selections of

transmissions and transmission times. This is shown by Hoffman at column 4, lines 1-9, which reads as follows:

The output of the selection control arrangement 6 is connected to a memory 7 for a plurality of program data which can wholly or partly be entered by the user via the control unit 4. In addition, a character reader may be connected to the control unit 4, by means of which reader the user can, for example, read character codes from the Radio Times and enter them as programming data into the memory 7 via the selection control arrangement 6.

As shown by this section, Hoffman clearly only stores the user's selection of transmissions and the times for those transmissions. Hoffman does not teach or suggest retaining a broadcast event according to a retention parameter in order to create a previously recorded broadcast event.

Culbertson does not make up for the deficiencies of Hoffman. Culbertson is directed to an automated digital broadcast system that is capable of reliable operation for long periods of time without human assistance. The system comprises a plurality of compact disc players or other audio devices that are controlled by a computer to sequentially play a predetermined list of musical selections and commercial or informational messages. There is nothing in any section of Culbertson that teaches or suggests retaining a broadcast event according to a retention parameter in order to create a previously recorded broadcast event.

The Office Action alleges that Culbertson teaches retrieving the previously recorded broadcast event according to the playback format parameter at column 1, lines 25-35 and 43-66, which read as follows:

There are a number of applications where it would be desirable to have an automated broadcast system capable of playing music and other prerecorded materials over extended periods of time without human assistance. Such a system must perform the same tasks that were described above; it must start and stop the various selections in a timely manner to maintain a predetermined schedule, and it must operate reliably, monitoring the operation of the audio playback devices and taking appropriate action if a device fails to cue or play a given selection.

(Column 1, lines 25-35)

The present invention overcomes the shortcomings of the prior art by providing an automated digital broadcast system which is capable of

reliable operation for long periods of time without human assistance. The system comprises a plurality of compact disc players or other audio devices which are controlled by computer to sequentially play a predetermined list of musical selections and commercial or informational messages.

The system executes control software to perform the following functions. It reads from a data storage device into memory a compiled playlist of selections for a given period of time, such as 24 hours. It sends control signals, using appropriate interface hardware, to the audio playback devices to start and stop play of selections according to the playlist schedule. The selections are cued prior to play so that their starting time can be accurately controlled. It receives signals from the audio playback devices and monitors their operation. In the event of failure to cue, start or stop a selection on schedule, the control software causes corrective action to occur. For example, if a compact disc player does not acknowledge receipt of a command to start play, the commands to start play are reissued.

(Column 1, lines 43-66)

In column 1, lines 25-35, Culbertson merely teaches an automated broadcast system capable of playing music and other prerecorded materials over extended periods of time without human assistance. In column 1, lines 43-66, Culbertson merely teaches an automated digital broadcast system comprised of compact disc players or other audio devices that are controlled by a computer to sequentially play a predetermined list of musical selections and commercial or informational messages.

Furthermore, Culbertson does not teach or suggest playing back the previously recorded broadcast event according to the playback format parameter. The Office Action alleges that this feature is taught by Culbertson at column 1, lines 25-35 and 43-66, shown above. As discussed above, these sections of Culbertson merely teach an automated broadcast system capable of playing music and other prerecorded materials over extended periods of time without human assistance.

Pawlowski does not make up for the deficiencies of Hoffman and Culbertson. Pawlowski is directed to a portable digital audio recorder that provides a first set of control or editing options with respect to a first category of voice data files stored in the recorder, and provides a different set of control or editing options with respect to a second category of voice data files stored in the recorder. The Office Action alleges that Pawlowski teaches retaining the broadcast event according to the retention parameter in

order to create a previously recorded broadcast event at column 9, line 62 to column 10, line 1, which reads as follows:

After step 356, and as indicated by decision block 358, the recorder unit prompts the user to indicate whether he or she desires to have the recorder unit operate in accordance with a personalized operating parameter profile. If not, the recorder unit simply stores an indication that a default operating parameter set is to be employed when the recorder unit is in use by the particular user (step 360). However, if the user indicates that a personalized operating parameter profile is desired, then step 362 follows step 358. At step 362 the user is prompted to enter preferred values for one or more operating parameters. The recorder unit then stores the entered values as the user's preferred operating parameter profile. The operating parameters available for specification by the user may include one or more of the following: output volume level, playback speed, rewind increment, VOX on or off, VOX sensitivity, timing of end zone warning, compression algorithm, microphone gain level, inactivity time-out period, 12- or 24-hour time notation, backlight time-out period, VOX holdover period, automatic deletion of files after uploading to another device, options as to header data for voice files (including header data format or field definition), file search criteria (which define how files are organized and presented in response to a "FIND" command).

While Pawlowski may record an event, the event is not an event that is broadcasted and retained according to a retention parameter, where the retention parameter is at least one of a topic, a title, number of copies, or an indication of whether memory stacking is to be employed, as recited in the instant claims.

Furthermore, there is not so much as a suggestion in either reference to modify the references to include such features. That is, there is no teaching or suggestion in Hoffman, Culbertson, or Pawlowski that a problem exists for which retaining the broadcast event according to the retention parameter in order to create a previously recorded broadcast event, is a solution. To the contrary, Hoffman only teaches a system where a user programs a radio to receive future transmissions based on the time the transmission is to be received and at that time. Culbertson only teaches broadcasting a predetermined list of musical selections and commercial or informational messages. Pawlowski only teaches recording an event. None of the references even recognizes a need to retain a broadcast event according to a retention parameter in order to create a previously recorded broadcast event, as recited in claim 10.

Moreover, none of the references teach or suggest the desirability of incorporating the subject matter of the other references. That is, there is no motivation offered in any of the references for the alleged combination. The Office Action alleges that the motivation for the combination is "in order to organize and operate the previously recorded broadcast event." However, the only teaching or suggestion to even attempt the alleged combination is based on a prior knowledge of Applicant's claimed invention thereby constituting impermissible hindsight reconstruction using Applicant's own disclosure as a guide.

One of ordinary skill in the art, being presented only with Hoffman, Culbertson, and Pawlowski, and without having a prior knowledge of Applicant's claimed invention, would not have found it obvious to combine and modify Hoffman, Culbertson, and Pawlowski to arrive at Applicant's claimed invention. To the contrary, even if one were somehow motivated to combine Hoffman, Culbertson, and Pawlowski, and it were somehow possible to combine the systems, the result would not be the invention, as recited in claim 10, for example. The resulting system still would not retain a broadcast event according to a retention parameter and play back the previously recorded broadcast event according to the playback format parameter.

Thus, Hoffman, Culbertson, and Pawlowski, taken alone or in combination, fail to teach or suggest all of the features in independent claims 10, 28, and 42. At least by virtue of their dependency on claims 10, 28, and 42, the specific features of claims 11-17 and 29-35 are not taught or suggested by Hoffman, Culbertson, and Pawlowski, either alone or in combination. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 10-17, 28-35, and 42 under 35 U.S.C. § 103(a).

Moreover, in addition to their dependency from independent claims 10 and 28, the specific features recited in dependent claims 11-17 and 29-35 are not taught or suggested by Hoffman, Culbertson, and Pawlowski, taken alone or in combination. For example, with regard to claims 13 and 31, Hoffman, Culbertson and Pawlowski, taken alone or in combination, fail to teach or fairly suggest where the playback scheduling parameter is associated with scheduling the broadcast event and prioritized by the topic with respect to other broadcast events. The Office Action appears to acknowledge that Hoffman does not specifically disclose receiving a playback scheduling parameter for scheduling a

broadcast event, but then alleges that Hoffman teaches the claimed feature at column 1, lines 50-61, columns 4-5 and column 7, lines 32-60. Applicant agrees with the acknowledgement of the Office Action that Hoffman does not teach this feature and that nowhere in the rather lengthy portions of the Hoffman reference is it taught or suggested that a playback scheduling parameter is received for scheduling a broadcast event where the playback scheduling parameter associated with scheduling the broadcast event and prioritized by topic with respect to other broadcast events. Culbertson and Pawlowski do not make up for the deficiencies of Hoffman, as Culbertson and Pawlowski fail to teach or suggest playing back a previously recorded broadcast event.

Additionally, with regard to claims 14, 15, 32n and 33, Hoffman, Culbertson and Pawlowski, taken alone or in combination, fail to teach or fairly suggest where the playback format parameter is associated with formatting the broadcast event playback and prioritized by the title with respect to other broadcast events and where the playback format parameter is associated with formatting the broadcast event and prioritized by the topic with respect to other broadcast events. The Office Action appears to acknowledge that Hoffman does not specifically disclose receiving a playback format parameter for playing back a broadcast event, but then alleges that Hoffman teaches the claimed feature at column 1, lines 50-61, columns 4-5 and column 7, lines 32-60. Applicant agrees with the admission of the Office Action that Hoffman does not teach these features and that nowhere in the rather lengthy portions of the Hoffman reference is it taught or suggested that a playback format parameter is received for playing back a broadcast event where the playback format parameter associated with formatting the broadcast event playback and prioritized by title with respect to other broadcast events wherein the playback format parameter associated with formatting the broadcast event and prioritized by topic with respect to other broadcast events. Culbertson and Pawlowski do not make up for the deficiencies of Hoffman, as Culbertson and Pawlowski fail to teach or suggest playing back a previously recorded broadcast event.

Thus, in addition to being dependent on independent claims 10 and 28, the specific features of dependent claims 11-17 and 29-35 are also distinguishable over Hoffman, Culbertson, and Pawlowski by virtue of the specific features recited in these

claims. Accordingly, Applicant respectfully requests withdrawal of the rejection of dependent claims 11-17 and 29-35 under 35 U.S.C. § 103 (a).

III. 35 U.S.C. § 103, Alleged Obviousness, Claims 18, 36, 43 and 44

The Office Action rejects claims 18, 36, 43 and 44 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hoffman et al. (U.S. Patent No. 4,635,121), Culbertson et al. (U.S. Patent No. 5,168,481), and Pawlowski et al. (U.S. Patent No. 6,038,199) and further in view of Williams et al. (U.S. Patent No. 5,977,964). This rejection is respectfully traversed.

Claims 18 and 36 are dependent on independent claims 10 and 28 and, thus, these claims distinguish over Hoffman, Culbertson, and Pawlowski for at least the reasons noted above with regards to claims 10 and 28. Moreover, any alleged combination of Hoffman, Culbertson, Pawlowski, and Williams would not be sufficient to reject independent claims 10 and 28, or claims 18 and 36 by virtue of their dependency. In addition, with regard to independent claims 43 and 44, while Williams may teach user identification, Williams does not provide for the deficiencies of Hoffman, Culbertson, and Pawlowski. That is, Williams does not teach or suggest retaining the broadcast event according to the retention parameter, where the retention parameter is at least one of a topic, a title, number of copies, or an indication of whether memory stacking is to be employed, in order to create a previously recorded broadcast event, retrieving the previously recorded broadcast event according to the playback format parameter, and playing back the previously recorded broadcast event according to the playback format parameter. As discussed above, Hoffman, Culbertson, and Pawlowski fail to teach or suggest these specific features.

Moreover, the Office Action may not use the claimed invention as an "instruction manual" or "template" to piece together the teachings of the prior art so that the invention is rendered obvious. In re Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Such reliance is an impermissible use of hindsight with the benefit of Applicant's disclosure. Id. Therefore, absent some teaching, suggestion, or incentive in the prior art, Hoffman, Culbertson, Pawlowski, and Williams cannot be properly combined to form the

claimed invention. As a result, absent any teaching, suggestion, or incentive from the prior art to make the proposed combination, the presently claimed invention can be reached only through an impermissible use of hindsight with the benefit of Applicant's disclosure a model for the needed changes.

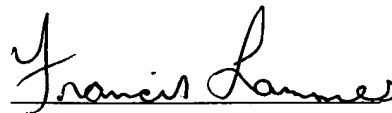
In view of the above, Hoffman, Culbertson, Pawlowski, and Williams, taken alone or in combination, fail to teach or suggest the specific features recited in independent claims 43 and 44 or independent claims 10 and 28, from which claims 18 and 36 depend. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 18, 36, 43 and 44 under 35 U.S.C. § 103(a).

IV. Conclusion

It is respectfully urged that the subject application is patentable over the prior art of record and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: April 22, 2005

Respectfully submitted,



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